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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,968	02/17/2005	Petrus Maria De Greef	NL02 0769 US	2948
65913	7550	12/30/2009		
NXP, B.V. NXP INTELLECTUAL PROPERTY & LICENSING M/S41-SJ 1109 MCKAY DRIVE SAN JOSE, CA 95131			EXAMINER JOSEPH, DENNIS P	
			ART UNIT 2629	PAPER NUMBER
			NOTIFICATION DATE 12/30/2009	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

**Advisory Action**  
**Before the Filing of an Appeal Brief**

**Application No.**

10/524,968

**Applicant(s)**

DE GREEF ET AL.

**Examiner**

DENNIS P. JOSEPH

**Art Unit**

2629

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 02 December 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-11 and 13-20.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
Please see attached.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Amr Awad/  
Supervisory Patent Examiner, Art Unit 2629

Applicant's arguments are respectfully not persuasive. The 112 rejection has been maintained and examiner continues to assert the new matter rejection because of the lack of specification support. Changes to the specification are needed or Applicant could better define the claim language to match with the specification. A request for reconsideration is also respectfully requested to continue prosecution of this case.

As for the 112 first and second paragraph rejections, Applicant's formula is not covered in the specification. While Applicant is allowed some leeway if the specification suggests the claim language, the claim language is excessive in this regard. The mere mention that the concept is covered is not enough. Applicant does not disclose how the quantization errors of the neighboring pixels is used in his formula, or at least not to enough degree. If CV is a value of 1/2, why is this not in the claim language? It would seem to examiner that the specification provides no other definition for the value of CV other than this. In addition, looking at the claim language, it states CV represents the constant value, yet this value isn't defined in the claims. Examiner wonders why Applicant hasn't explicitly stated 1/2. The same reasoning is applied to the multiplier coefficients. The specification allows for no other ranges for these values, yet the claim language seemingly does. Again, this is new matter and also a second paragraph issue since it is not defined. Applicant's specification provides no range, maybe just explicit values. As noted above, while the language does not need to be described literally, it is not shown in the drawings and is not shown in enough sufficient detail in the specification.

Please note the added emphasis on the 112 second paragraph rejection parts well.

As for Applicant's arguments on the current art rejection, the final rejection was definitely not premature or in examiner's opinion, incorrect. The claim language calls for multiple quantization errors of different neighboring pixels. This is a well known teaching in the art as noted in the rejection and Zlotnick has been combined to emphasize this. Zlotnick, as noted in the rejection, notes the quantization differences between the various locations around a target location and adjusts (emphasis on adjusts) the target location based on the results. Examiner does not see Applicant's arguments on how this is different than adjusting based on neighboring pixels. Please note Column 6, Lines 15-23 in particular in which the differences between the quantization values of the neighboring pixels is used, each at their own quantization level, and how the adjustment process then occurs. This indeed shows multiple quantization errors, which Applicant has argued.

Applicant's language on multiple quantization errors of different neighboring pixels is broad, and at the very least, Zlotnick teaches of the claim language. Examiner feels Applicant is importing limitations from the specification into the claim language. While Applicant's invention might be different, it has not yet been claimed as such.

Applicant is advised to overcome the current rejection by fixing issues with the objected claims, thus removing the new matter and indefiniteness issues and passing the case to allowance. Perhaps amending the specification or better claiming the variables in the formula would help.